

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN ALLEN BARDENHAGEN,

Defendant-Appellant.

UNPUBLISHED
February 25, 2003

No. 238419
Leelanau Circuit Court
LC No. 01-001196-FH

Before: Kelly, P.J., and White and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction for OUIL, third offense, MCL 257.625(1). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant asserts that the trial court erred in denying his motion to suppress. A trial court's factual findings are reviewed for clear error. *People v Marsack*, 231 Mich App 364, 372; 586 NW2d 234 (1998). A ruling on a motion to suppress that involves mixed questions of fact and law, or pure questions of law, is reviewed de novo. *Id.*

Defendant was stopped by a sheriff's deputy, who testified that defendant made a turn without using his turn signal. Defendant claimed that he signaled his turn by hand. The officer testified that he did not see the hand signal, and he was in a position to see such a signal if it had been made. The trial court found the fact that defendant did not tell the officer about the hand signal at the time of the stop was convincing evidence that a hand signal was not used. Where the dispute centered on a credibility contest, the trial court did not clearly err in deciding in favor of the officer based on defendant's failure to inform the officer at the time of the stop that he used a hand signal.

A non-functioning turn signal is an equipment violation that supports a traffic stop. The vehicle code requires that vehicles manufactured after 1955 have mechanical or electrical turn signals, MCL 257.697a, but it also allows a turn to be signaled by hand, MCL 257.648. When a vehicle is equipped with a stop lamp or other signal lamps, the lamp or lamps shall at all times be maintained in good working order. MCL 257.697(b). "A police officer on reasonable grounds shown may stop a motor vehicle and inspect the motor vehicle, and if a defect in equipment is found, the officer may issue the driver a citation for a violation of a provision of sections 683 to 714a." MCL 257.683(2); see *People v Williams*, 236 Mich App 610, 612, 615; 601 NW2d 138

(1999). Given the prevalence of electric turn signals, it would be reasonable for the officer to conclude defendant either failed to use the turn signal or the turn signal was defective. Either action would support a traffic stop.

It is unnecessary to address the trial court's comments regarding the officer acting in good faith. The dispositive question is not whether an actual violation occurred, but whether the officer had a reasonable suspicion that a violation may have occurred. *People v Fisher*, 463 Mich 881, 882; 617 NW2d 37 (2000) (Corrigan, J., concurring); *People v Shabaz*, 424 Mich 42; 378 NW2d 451 (1985); *Williams, supra*. Where the officer saw defendant turn without signaling, he had a reasonable suspicion that a violation may have occurred.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Helene N. White
/s/ Joel P. Hoekstra